BAKER, LEWIS SCHWISOW & LAWS, PLLC

Drunk Driving FAQ

RELIABLE INFORMATION FROM SEATTLE DUI ATTORNEY

When can a person be charged with DUI?

Under Washington law, driving under the influence (DUI) applies to any instance where a person operates a motor vehicle with an alcohol concentration of .08 or higher while under the influence or affected by alcohol or any drug.

What does BAC mean?

BAC stands for blood alcohol content. In the state of Washington, if a person's blood contains .08 percent or higher of alcohol, they are legally intoxicated. A person's BAC can be measured by a blood test or breath test, which will reveal the percentage of alcohol present in the bloodstream.

What is a field sobriety test? Can it accurately determine how intoxicated a person is?

Field sobriety tests are among the ways an officer can attempt to collect evidence to use against you in determining whether you are impaired by alcohol consumption. These tests typically serve two purposes for a law enforcement officer: [1] The tests measure a person's physical performance, and [2] The tests use a serious of instructions to determine a person's ability to pay attention to multiple things at the same time. With blood or breath testing, certain equipment is needed to perform a BAC test and police officers do not always have these readily available while they are out in the field. Some officers may carry a portable breath test (PBT) with them in order to get a reading in the field, but these machines are typically not as accurate as the Datamaster which is stationary and typically located in a police station.

This series of field sobriety tests may allow an officer to quickly assess whether or not a driver is impaired, potentially confirming their suspicions and giving them probable cause to make an arrest for DUI. A driver taken into custody may then be transported to a location where a blood or breath test will then be performed. Field sobriety tests are not accurate ways of independently determining a person's level of sobriety, but they can indicate impairment which may assist a police officer in determining whether an arrest needs to be made.

What types of field sobriety tests do police officers use the most?

The National Highway Transportation Safety Administration created a standardized model for field sobriety testing back in 1981, and this testing system uses a combination of three tests to determine if a driver is impaired. The One-Leg-Stand Test involves standing on one leg and raising the other leg approximately six inches off the ground with the toe pointed out. The position must be held while counting out loud for thirty seconds.

The Horizontal Gaze Nystagmus (HGN) Test is reportedly the most accurate field sobriety test because it was designed to test the brain's ability to control the eye muscles, an area that the brain struggles to control when a person has been drinking. While this test is being performed, the subject must keep his or her head still and follow the moving object only with his or her eyes until told to stop. The officer will take note of the suspect's eyes to see that they are tracking together and that both pupils are the same size.

The final test that officers commonly use is the Walk and Turn Test. This test requires certain conditions to be present, such as level ground and a dry non-slippery surface, and may not be valid for people with leg injuries or inner ear problems. To conduct the test, the officer will instruct the suspect to walk heel-to-toe on a line and follow the instructions of the officer to start and stop. If the suspect steps off the line, staggers, stumbles or stops, the officer may determine that the suspect's ability to drive is impaired.

While an officer may ask a person to recite the alphabet backwards or touch their finger to their nose, these tests are no longer commonly used by police officers to develop probable cause. If an officer suspects an individual of intoxication due to drug consumption, the officer may ask the suspect to due additional tests, including but not limited to instructing the person to remain stationary, tilt their head back with their eyes closed, and estimate when 30 seconds have passed.

Are blood and breath tests always accurate?

Of the two tests, blood tests are more accurate, although neither method is completely free from error. The testing equipment can malfunction if it is old, poorly maintained or misused, which can lead to an inaccurate test result. Other outside factors can also lead to blood and breath tests that aren't correct, such as pollution, health conditions and mishandling test samples. If you doubt the accuracy of your blood or breath test, a Seattle DUI defense lawyer can help.

How can I reinstate my driver's license after a DUI arrest?

If you have been arrested for DUI in Washington, you can expect to have your driver's license taken away for a certain period of time. Driver's license suspension is one of the main penalties associated with DUI charges, and this can happen if you are arrested for drunk driving or if you are convicted of DUI in court. Reinstating your license after a conviction can be tricky and will depend on certain factors such as your blood alcohol content, whether you were involved in any previous DUI accidents, and others.

How will I drive to work if my driver's license is suspended?

Many times, people do not realize that a DUI arrest will affect their lifestyle and they may no longer be able to do things they once did. Driver's license suspension is one of the most frustrating penalties of a DUI arrest because you may not be able to drive to work or run errands. Thankfully, you may qualify for an Ignition Interlock Driver License (IIL) that allows you to drive a vehicle equipped with an ignition interlock device for the period of your suspension or revocation. An IIL license means that you waive your right to request a hearing for your suspension, and you should talk to your attorney before making any final decisions.

Will my driving record still show my charges if the court reduces my DUI to a charge of Reckless Driving or Negligent Driving?

With the help of a qualified DUI defense lawyer, you may be able to successfully reduce your DUI charges and avoid many of the harsh penalties of a DUI conviction. Your driving record will still show these reduced charges because any license suspension that resulted from your charges will not be reduced or changed even if the court reduces your DUI.

What if I am found guilty of minor in possession?

If an individuals who is between the ages of 13-17 in Washington is found in possession of alcohol or is convicted of any offense involving a firearm, he or she will be charged with minor in possession. Minor in possession charges may also arise if an individual ages 13-20 signs a diversion agreement or is convicted of a drug offense. If you are found guilty of violating this law, your driver's license will be revoked. The license suspension will start 45 days after the state mails you the notice of revocation, and a first offense will result in a 1 year suspension or until your 17th birthday, whichever is longer. A second offense will result in a 2 year suspension or until your 18th birthday, whichever is longer.